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C O N F I D E N T I A L SECTION 01 OF 02 KYIV 000804

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [UP](#)

SUBJECT: UKRAINE: PRESSURE ON PECHERSK COURT INCREASES,
INCLUDING THEFT OF STAMP AND KEYS

REF: A. KYIV 784

[1](#)B. KYIV 790

Classified By: DCM Sheila Gwaltney for reasons 1.4 (b) and (d).

[1](#)1. (SBU) Summary: The Pechersk District Court became involved in the struggle over President Yushchenko's decree dismissing the Rada and setting new elections April 3 after it threw out an April 2 Rada resolution to replace the current Central Election Commission (CEC) with the previous one led by the discredited Serhiy Kivalov, now a Regions MP. The morning of April 5, the court's recently dismissed chairman Kolesnichenko physically attacked and forcibly seized a court stamp from a court employee while accompanied by an unnamed MP and a group of men. Acting court chairwoman Otrash privately confirmed press accounts of the incident to us. Otrash told the media she later saw Kolesnichenko stamping documents in his office, which he has refused to vacate, and that Kivalov had threatened court judges in an April 4 visit to the court, demanding that they rescind their April 3 decision. President Yushchenko ordered General Prosecutor Medvedko to investigate the incident. A court staffer confirmed to us later in the day that Kivalov left the court with the Pechersk court stamp (one of two) seized by Kolesnichenko, plus the keys to the safes in Otrash's office.

[1](#)2. (C) Comment: The reported events at the Pechersk district court and the direct involvement of Serhiy Kivalov are troubling developments. Ambassador raised the issue with PM adviser Kostantin Gryshchenko late April 5. Gryshchenko registered our concerns and could only offer a weak response, noting that Kolesnichenko had been seen as sympathetic to Regions and that Yushchenko had dismissed him to install a judge sympathetic to his own views. End Summary and Comment.

A Court Not New to Political Controversy

[1](#)3. (SBU) Background: the Pechersk District Court has territorial jurisdictions over central Kyiv to include the Parliament (Verkhovna Rada), Cabinet of Ministers and Presidential Secretariat. It is likely Ukraine's most prominent district court, with a history of controversial political and economic rulings. During the Kuchma era, the court was viewed as being partially controlled by Kuchma chief of Staff Viktor Medvedchuk. The Pechersk Court became embroiled in the latest bureaucratic jostling between the coalition and opposition when, on April 3, it threw out the Rada April 2 resolution attempting to reinstate the discredited 2004 Central Election Committee headed by Serhiy Kivalov, now a Regions MP, Chairman of the Rada's Judicial Committee, and a member of the High Council of Justice. Pressure on the court began April 4, with Kivalov vowing to unseat the court judges and making a visit to the court threatening the judges' removal unless they rescinded their

April 3 decision. On the same day, 20 coalition MPs arrived at the CEC chair's office to pressure for current Chair Davydovych's removal and Kivalov's return, with one MP vowing to stay at the commission until May 27 to prevent it from implementing the pre-term elections called for by President Yushchenko (ref B).

Former Court Chairman Forcibly Seizes Court Stamp...

¶4. (SBU) The court's acting chair, Inna Otrash, privately confirmed to us April 5 accounts she had provided to reporters earlier: while the judges were in chambers, the court's former chairman, Volodymr Kolesnichenko, entered the court accompanied by an unidentified MP and a group of apparent bodyguards, demanded the court stamp from Otrash's assistant, and when the employee refused, physically shoved her and forcibly seized one of the court's official stamps. (Note: an Interfax reporter claims to have seen Kivalov enter the office where the altercation occurred.) Kolesnichenko, who was dismissed as the court's chairman two weeks earlier by President Yushchenko, had refused to accept his reassignment to the Uman court in Cherkasy province. Otrash told reporters she subsequently saw Kolesnichenko stamping documents in his former office.

...President and Speaker interested...

¶5. (U) President Yushchenko, meeting Prosecutor general Oleksander Medvedko at the time of the incident, instructed Medvedko to open an investigation, according to the Presidential Secretariat news service. Before the events unfolded, Rada Speaker Moroz had authorized the heads of the

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three relevant parliamentary committees, MPs Kivalov (Judiciary), Dzhyha (Anti-Corruption), and Samoilenko (National Security and Defense), to "investigate" the situation at the Pechersk Court.

...and Kivalov walks away with the stamp and safe keys

¶6. (SBU) A court employee confirmed to us late April 5 that MP Kivalov had departed the Pechersk court in possession of the stamp which Kolesnichenko had seized in the morning, along with the keys from the safes in Otrash's office.

¶7. (U) Visit Embassy Kyiv's classified website:
www.state.sgov.gov/p/eur/kiev.
Taylor